



**In the Pakistan Information Commission, Islamabad**

**Appeal No 810-12/20**

**Applications for Implementation of Commission's Order**

**Rana Abrar Khalid**

**(Appellant)**

**Vs.**

**Cabinet Division**

Through its Public Information Officer

**(Respondent)**

**Order**

Date: February 21, 2022

Zahid Abdullah: Information Commissioner

**A. Applications**

1. That the Appellant filed three applications with the Commission on November 05, 2021, December 12, 2021 and February 18, 2022.
2. That the text of the main points raised in these applications is as under:  
“With reference to the earlier application dated 05-11-2021, it is clearly stated that in the writ petition No. 3247/2021, pending before the Hon'ble Islamabad High Court, Neither any injunctive order was issued nor the impugned order was suspended by the high court. So in this eventuality, it is settled principle of law that mere filling of an appeal does not operate as status quo unless ordered specifically.

“Although show causes notice dated 10-06-2021 has already been issued. to the "contemnor" but thereafter no fruit full proceedings could be carried out by this Hon'ble commission, in this regard it seems, perhaps this commission is under impression that due to pendency of Writ Petition No. 3247/2021 against the order "complained of before. Islamabad High Court, Islamabad, this commission cannot proceed further in the matter until decision of said writ petition, it is humbly submitted that the Hon'ble Islamabad High Court Islamabad neither passed any injunctive order regarding proceedings before this Hon'ble commission, nor the operation of the impugned order is suspended, in this eventuality it is settled principle of law that mere filing of an appeal does not operate as status Quo unless ordered specifically.. That the matter under adjudication before this Commission relates to a "High Profile" issue, hence it requires early disposal according to law.

In the circumstances, it is requested that by accepting the instant application, the proceedings in the matter may very graciously be carried out on day to day basis in the best interest of justice”.

The text of the application filed by the Appellant on February 18, 2022 is as under:

“As you know (with reference to Appeal No. 810-12/20) my applications were heard on 3 February 2022 by this Commission (as a result of the notice issued on 20 January 2022). Rana Abid Nazir Khan Advocate appeared on behalf of Rana Abrar Khalid (Appellant) while Mr. Aamir Ansari, Deputy Secretary (Coord) Cabinet Division appeared on behalf of Respondent.

Respondent side argued that the writ petition is pending in the Islamabad High Court in which Government of Pakistan has been challenged the Pakistan Information Commission’s decision (on Appeal No. 810-12/20, dated January 27, 2021), due to which the Commission should wait for the decision of the High Court to take any action to implement its decision.

On the other hand, my counsel Rana Abid Nazir Khan Advocate presented the order sheet of the Islamabad High Court before the Commission and argued that the Islamabad High Court did not issue any restraining order on the writ petition of the Government of Pakistan, although the government in its C.M had sought a restraining/stay order.

Moreover, during the hearing of the case on December 8, 2021, Justice Mian Gulhassan Aurangzeb of the Islamabad High Court made clear remarks that the court did not issue any restraining order on the writ petition or C.M of the government while the Pakistan Information Commission is fully authorize to implement its decision/judgment/order and the Commission can take any necessary action in this regard. So Commission’s decision (on Appeal No. 810-12/20, dated January 27, 2021) is not suspended by the Islamabad High Court and the commission should announce its decision on the appellant's contempt of court application against Public Information Officer Cabinet Division, he argued.

During the hearing, the Honorable Commission largely agreed with the arguments of the appellant's counsel that the Government of Pakistan did not appeal to the Islamabad High Court but filed a writ petition while the scope of the writ petition is limited. It may be observed that the petitioner was not deprived of any right while delivering the decision of the appeal.

During the hearing, I (appellant) raised the point that the Government of Pakistan in its writ petition (filed before IHC) did not challenge the ‘Show Cause Notice’ issued on 10 June 2021 on my contempt of court application issued by the Pakistan Information Commission. On the contrary, the government has only challenged the decision of the Commission dated January 27, 2021 and honorable Commission showed agreement by this factual position.

Dear Sir,

If the honorable members of the Commission feel that the Pakistan Information Commission is unable to announce its decision on my contempt of court petition till the Islamabad High Court gives its decision on the writ petition of the Government of Pakistan. I would like to know which provision of the law prevents the Pakistan Information Commission from passing judgment against the Public Information Officer, Cabinet Division on my contempt of court petition. Although Pakistan Information Commission has issued order (on my appeal No. 810-12/20) on 27 January 2021 to provide the demanded information to the appellant within 10 working days, unfortunately, Cabinet Division not only did not implement the decision of the Commission but Mohammad Ahad, Deputy Secretary (Coord) Cabinet Division also sent a letter to the Commission on 15th February, 2021 stating its inability to implement the decision. There was open denial.

Subsequently, I filed a contempt of court application against the Cabinet Division in the Pakistan Information Commission on February 24, 2021.

After this, honorable Commission has sent a notice to Deputy Secretary (Coord) Cabinet Division on March 19, 2021 and directed to submit compliance report within 5 working days of receipt of the notice. In response, Cabinet Division requested to grant time for legal opinion from Law & Justice Division (Government of Pakistan).

Finally, Pakistan Information Commission issued 'Show Cause Notice' on June 10, 2021 on my contempt of court application and fixed the date of hearing for July 8, 2021.

But during the contempt of court hearing on July 8, 2021, another drama was deliberately played by the Cabinet Division, Mohammad Ahad, Deputy Secretary (Coord) Cabinet Division appeared before the Commission in my (Appellant's) absence and submitted an irrelevant document and informed the Commission that this is the information requested by the Appellant. The document contains only a breakup of the auction of gifts that have been deposited in the Toshakhana for the past five years, without an answer to a single question asked in my RTI request.

In fact, it was a case against the Mohammad Ahad, Deputy Secretary (Coord) Cabinet Division (according to Pakistan Penal Code) for providing false information to the Commission through a false document, but unfortunately the Commission did not initiate this case against the him despite my submission of a written application in this regard.

Dear Sir,

It is my humble submission that the two applications submitted by my Counsel Rana Abid Nazir Khan Advocate to the Commission, which were heard on February 3, 2022, be decided in accordance with the law in my favor. Because as far as I know, no law prevents the Pakistan Information Commission from implementing its decision on the basis that only a writ petition has been filed and is pending in the High Court, nor does it prevent it from announcing the decision on my contempt of court application".

**B Proceedings:**

3. That the commission held hearing on this issue on February 03, 2022 which was attended by the learned counsel for the Appellant Mr. Rana Abid Nazir Khan, representative of the public body and the Appellant himself. The learned counsel of the Appellant reiterated the stance submitted in writing whereas the Respondent maintained that the commission should not take any further action as the matter is pending decision in Islamabad High Court.

**C Issue:**

4. The question for the deliberation of this commission is as under:  
should the commission intervene for the implementation of its Order when the matter is sub-judice in Hon'ble Islamabad High Court?

**D. Discussion and Commission's View on Relevant Issues:**

5. The record on the file suggests that there has been 'delay' with regard to implementing/challenging the Order of the commission.
6. This commission holds that the 'delay', though undesirable, does not meet the threshold of 'willful' delay to invoke Section 20 (1) (e) and (f) of the Right of Access to Information Act, 2017.
7. The 'delay' has been caused because, firstly, PIO provided information which he thought was admissible under the Right of Access to Information Act, 2017. However, the

Appellant rightly pointed out that the information being provided was not in accordance with what he had requested.

8. Secondly, the 'delay' was caused because the Respondent sought opinion from the Ministry of Law and Justice about the Order of the commission. There is no provision in the Right of Access to Information Act, 2017 that envisages any role for the Ministry of Law and Justice regarding disclosure or otherwise of the requested information. As such, any unreasonable delay with regard to implementing, or, challenging the Order of the commission is entirely uncalled for.
9. This commission maintains that, notwithstanding the fact that there has been undesirable 'delay' in implementing/challenging of the Order, any action against the Respondent, under powers vested in this commission would not be the interest of justice at this stage when Order of the commission is pending decision in Hon'ble Islamabad High Court.

**E. Order:**

10. Applications seeking further intervention of this commission for the implementation of its Order are disposed of in deference to Hon'ble Islamabad High Court where Order of the commission in the instant Appeal is sub-judice.
11. Copies of this order be sent to Secretary, Cabinet Division and the Appellant for information.

**Mohammad Azam**

Chief Information Commissioner

**Fawad Malik**

Information Commissioner

**Zahid Abdullah**

Information Commissioner

Announced on: February 22, 2022

This order consists of 4 (four) pages, each page has been read and signed.